

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 68302

James M. Anderson
601 Aquahart Road
Glen Burnie, MD 21061

1706 Selma Avenue

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on July 21, 2010 for a Hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR) section 101, 102.1, 1B01.1, 408B, failure to cease the operation of a rooming/boarding house on residential property zoned DR 3.5 known as 1706 Selma Avenue, 21061.

On June 10, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Chip Raynor issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$43,600.00 (forty three thousand six hundred dollars).

The following persons appeared for the Hearing and testified: Andrew F. DiBlasio, Esquire, representing James M. Anderson, Respondent; Travis Francis, Fire Marshal and, Chip Raynor, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on September 17, 2009 for illegal rooming/boarding house, cease the operation of illegal rooming/boarding house from this property. This Citation was issued on June 10, 2010.

B. Inspector Chip Raynor testified that this Citation was issued because this single-family house, zoned D.R. 3.5 was being used illegally as a hotel or boardinghouse for airline personnel, without required permits and inspections. He testified that Respondent did obtain a Rental Housing License from Baltimore County to rent the property, but that the house cannot be used as a hotel/motel or a boardinghouse. He further testified that the property is currently posted for sale and that it appears to be vacant.

C. Fire Marshal Travis J. Francis, Sr., Baltimore County Fire Department testified that after receiving a complaint in 2009 about three homes, two were inspected and found to be illegal hotels or boardinghouses. The Fire Department requested that beds be removed to return the houses to appropriate status as two or three bedroom homes, and compliance was obtained. A new complaint was received in June 2010 about numerous people coming and going at all hours, and the Fire Department attempted to make an inspection. Fire Marshal Francis testified that attempts to inspect the property were denied by a resident and by Respondent. Respondent gave the Fire Department his business card which said "CrashTel, Members of the Best Crash Pad Network," lists "Mike and Viasta Anderson, Owners," and gives a phone number and website address for crashtel.com and bestcrashpad.com.

D. Fire Marshal Francis further testified that a website for a "Crashtel" business displayed threats to the Fire Department and advertised services to airline personnel; he provided pages from a website www.bestcrashpad.com that described

"The resting locations we provide you at no additional charge are privately owned fully furnished apartments. The owners of each home have provided their guest with a private room or fully enclosed privacy beds in shared space for your rest and privacy. Each bed reclines for you to sit up and watch TV, read or use the Wireless Internet with your laptop. The bed also has a reading lamp, LCD Cable TV, ventilation [sic] fan and alarm clock. You also have free use of the house phone, kitchen, clothes washer/dryer, house computer and wireless access for your laptop."

The website further specified that courtesy shuttles were available to flight crew members. Another page from the website states, "Reserve a Bed, Our service is only available to commuting commercial pilots and flight attendants." The page directs customers to a PayPal payment page and specifies that a nonrefundable \$100.00 deposit is required as a fee that "is a holding deposit which will be incorporated into your first month's rent." A page from the website that was printed out on April 26, 2010 shows a picture of this property, labeled "Two Unit Rental Home," and states,

"This is private property! We believe the Baltimore County Fire Department is corrupt when it comes to their inspection practices. We also have serious questions concerning the motivation of a very arrogant fire official calling himself Lieutenant Taylor. For this reason, any Baltimore County Fire Official placing one foot on this property without an appointment should expect to be escorted off the premises at gun point by the owner."

The other pages from the website that were provided for this administrative record include a PayPal account page showing a \$100.00 payment for "Best Crash Pad Deposit – Two Unit Rental Home – ME 5, item #145, and show a phone number that matches Respondent's business card.

E. Fire Marshal Francis further testified that the Fire Department had to go to court to obtain an administrative search warrant to enter the property. The warrant was served three times and the Department was unable to gain entry. The Fire Department contacted Baltimore County Code Enforcement, and this Citation was issued.

F. Andrew F. DiBlasio, Esq., attended this Hearing representing Respondent, who did not attend. Mr. DiBlasio was sworn in as a witness so he could present factual testimony. Mr. DiBlasio testified that he was at the Fire Department inspection in September 2009 and that he requested copies of regulations relating to the number of beds permitted in the house. He further testified that his client removed the bed structure as requested. He testified that he called PDM Deputy Director Mike Mohler and Fire Department Lieutenant Taylor in late September and early October to schedule inspection. Following discussions, his client registered the property as a duplex with two apartments, and obtained a Rental Housing License. Mr. DiBlasio testified that Lieutenant Taylor didn't return his calls and that another inspection was not scheduled. Mr. DiBlasio testified that the apartment was put on Craig's

List and other sites to rent it out, and that it has also been put on the market for sale and is still listed with ReMax Realty Company. Mr. DiBlasio testified that his client thought that since it was approved as a rental unit, the County should not have been trying to inspect it.

G. Baltimore County's zoning regulations restrict the number of unrelated adults who can occupy a house for compensation. Because this is not the owner's domicile, the house can only be occupied by two unrelated adults absent a permit for a boarding- or rooming-house. BCZR Section 101.1; Section 408B. Based on the evidence presented, an illegal boardinghouse with more than two tenants has been operating at this location. Information from the complaint, from observations by Fire Department and Code Enforcement personnel, and from advertisements on the Internet all support this Citation. Respondent's failure to cooperate with lawful requests for inspection was improper and Respondent should not benefit from this lack of cooperation. Respondent's claims that inspection was offered are not credible given the testimony from County representatives.

H. Because compliance is the goal of code enforcement, and because the house is currently vacant and the violations have been corrected, the civil penalty will be rescinded if re-inspections find the violations have remained corrected. Because the violation recurred after coming into compliance in 2009, re-inspection over an extended period will be required. Respondent must cooperate with reasonable inspection requests from County agencies in order to obtain rescission of the penalty.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$2,000.00 (two thousand dollars).

IT IS FURTHER ORDERED that the civil penalty will be RESCINDED and reduced to zero dollars if re-inspections between the date of this Final Order and March 1, 2011, find the violations have been corrected.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 13th day of August 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.